97-84128-11

Den, Henry Hwei

The activities of the League of Nations...

Urbana, Ill.

1938

97-84128-11
MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES
PRESERVATION DIVISION

BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

308
Z
Box 496 **Den, Henry Hwei,** 1910–

The activities of the League of nations in promoting international commercial relations, by Henry Hwei Den ... Urbana, Ill., 1938.

21 p., 1 l. 22½ᶜᵐ.

Abstract of thesis (PH. D.)—University of Illinois, 1938.
Vita.
Bibliographical foot-notes.

INTERNATIONAL LAW
JX
1975
D389

Copy in Law Library. 1938.

1. League of nations. 2. Commerce. I. Title.

39-3945

Library of Congress
Univ. of Illinois Libr.

JX1975.D526 1938

~~Copy 2.~~ [2]

341.1

RESTRICTIONS ON USE: *Reproductions may not be made without permission from Columbia University Libraries.*

TECHNICAL MICROFORM DATA

FILM SIZE: 35mm **REDUCTION RATIO:** 10:1 **IMAGE PLACEMENT:** IA (IIA) IB IIB

DATE FILMED: 7/2 **INITIALS:** TLM

TRACKING # : 25546

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

Univ. Exchange JUN 30 1938

THE ACTIVITIES OF THE LEAGUE OF NATIONS IN PROMOTING INTERNATIONAL COMMERCIAL RELATIONS

308
Z
Box 496

BY

HENRY HWEI DEN

A. B., Southwestern College, 1934
A. M., University of Illinois, 1936

AN ABSTRACT OF A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN POLITICAL SCIENCE IN THE GRADUATE SCHOOL OF THE UNIVERSITY OF ILLINOIS, 1938

URBANA, ILLINOIS
1938

THE ACTIVITIES OF THE LEAGUE OF NATIONS IN PROMOTING INTERNATIONAL COMMERCIAL RELATIONS

BY

HENRY HWEI DEN

A. B., Southwestern College, 1934
A. M., University of Illinois, 1936

AN ABSTRACT OF A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN POLITICAL SCIENCE IN THE GRADUATE SCHOOL OF THE UNIVERSITY OF ILLINOIS, 1938

URBANA, ILLINOIS
1938

April 18, 1939 Ga.

THE ACTIVITIES OF THE LEAGUE OF NATIONS IN PROMOTING INTERNATIONAL COMMERCIAL RELATIONS

Since the latter part of the last century the world, because of advances in science and techniques of production, has witnessed a vast development of unions and groupings among nations in dealing with their common problems. Such public and private associations as the International Chamber of Commerce, international commercial or industrial cartels, labor unions, the Universal Postal Union, and the International Institute of Agriculture, all bear witness to a growing recognition before the World War of the interdependence in economic life between peoples. Under such an irresistible process of world economic integration, international cooperation has become more compelling and indispensable. The experience of these years is a sufficient argument for the statement in the Final Report of the World Economic Conference of 1927 that "prosperity is not something which can be enjoyed in small compartments."[1]

The World War gave the greatest impetus to this movement. The creation of the League of Nations with the International Labor Organization represents the latest and the most important of such development. "It may truly be said", observed Sir George Paish, "that the League of Nations is the product of modern economic conditions, and that but for the growing interdependence of the nations the League could not and would not have been created."[2] Professor Manley Hudson very aptly remarked that "for a truer view of the League of Nations we must regard it . . . as a new method which has been adopted by the existing States for cooperation to meet those needs of world society which can not be met by national action."[3]

The purpose of the League, according to its Preamble, is to promote international cooperation and to achieve internatinal

---

[1] *Final Report of the World Economic Conference, 1927* (C. E. I. 44), p. 15.

[2] "The World Economic Conference," *Contemporary Review*, Vol. CXXXII, pp. 9-14 (July, 1927).

[3] Quoted by Howard-Ellis, *The Origin, Structure, and Working of the League of Nations*, p. 484.

peace and security. The political work of pacification undertaken by the League could not be compredended without simultaneously endeavoring to eradicate the economic causes of war and to improve those economic conditions which often give rise to international friction. It was primarily for these reasons that Article 23(e), from which the League derives its direct mandate in dealing with international commercial relations, was inserted in the League Covenant. The League to achieve peace and promote prosperity therefore has as its vital task the improvement of international commercial relations.

The League began its existence at a time when the economic and financial problems of the post-war world were at their worst. In the field of finance were the problems of depreciated currencies, unbalanced budgets, and threatened national bankruptcy. In the field economics were those of constantly mounting tariffs and other impediments to international trade. So long as currencies and public finances were in disorder no stable rebuilding of the economic system was possible. The League's efforts during its first six years very naturally took place in the financial field.

During this period, however, attention was given to secondary matters, and in particular, to measures intended (1) to safeguard international commerce against excessive and unjust customs and similar formalities; (2) to protect against unfair and dishonest commercial practices; (3) to discourage the restrictive or discriminatory treatment applied to foreign nationals and enterprises; and (4) to promote better means for the settlement of commercial differences by friendly arbitration.

Since 1923 international agreement was sought for fair and equitable treatment of foreign nationals and enterprises. Two series of recommendations communicated to the Members of the League in May, 1923, and in June, 1925, were designed to secure national treatment in economic, fiscal, and judicial matters for foreign nationals and enterprises admitted by law to establish themselves in a country.[4] Due to the complexity of the question the League has not been able to pass beyond the stage of recommendations. The attempt in 1929 to conclude an international convention met with dismal failure.

[4] *Off. Jour.*, Vol. IV, pp. 955-956 (Aug., 1923); Vol. VI, pp. 957-961 (July, 1925).

Despite this failure, the League's attempts to solve the rest of these questions referred to above were quite fruitful. On November 3, 1923, an international convention for the simplification of customs and similar formalities were signed under League auspices and went into force on November 27, 1924.[5] The system adopted aims at, with regard to customs formalities, publicity, simplicity, expedition, equality, and redress. In a large number of countries customs regulations and formalities have been one after another, following the ratification of the Convention, brought into conformity with the principles embodied in the Convention, either by unilateral action or by means of bilateral agreements. It tends to establish uniformity in customs regulations and formalities. Thus were removed the differences of interpretation and disputes to which such differences may give rise.

On the 24th of September of the same year a Protocol on Arbitration Clauses was adopted and opened for signature by the Assembly, and became effective July 28, 1924.[6] Under the terms of the Protocol, the contracting States recognize the validity of agreements to submit to arbitration differences relating to commercial matters between parties subject respectively to the jurisdiction of different States. They also undertake to ensure the execution of arbitral awards made in their territories. The Protocol contains no provisions regarding the enforcement of awards made in foreign countries. This defect was removed by a supplementary Convention signed on September 26, 1927.[7] It became effective July 25, 1929, and is at present in force between twenty-one States.

In addition, the Council, on the suggestion of the French Government, had in September, 1932, appointed fourteen experts to constitute a panel for arbitration between States.[8] The interested

[5] *League of Nations Treaty Series*, Vol. XXX (1924), pp. 373ff.

[6] *League of Nations Treaty Series*, Vol. XXVII (1924), pp. 157ff.

[7] *Ibid.*, Vol. XCII (1929), p. 301.

[8] *Procedure for the Friendly Settlement of Economic Disputes between States* (C.57.M.32.1932.II.B); *Off. Jour.*, Vol. XIII, p. 465 (Mar., 1932); pp. 1718-1719 (Nov., 1932).

peace and security. The political work of pacification undertaken by the League could not be compredended without simultaneously endeavoring to eradicate the economic causes of war and to improve those economic conditions which often give rise to international friction. It was primarily for these reasons that Article 23(e), from which the League derives its direct mandate in dealing with international commercial relations, was inserted in the League Covenant. The League to achieve peace and promote prosperity therefore has as its vital task the improvement of international commercial relations.

The League began its existence at a time when the economic and financial problems of the post-war world were at their worst. In the field of finance were the problems of depreciated currencies, unbalanced budgets, and threatened national bankruptcy. In the field economics were those of constantly mounting tariffs and other impediments to international trade. So long as currencies and public finances were in disorder no stable rebuilding of the economic system was possible. The League's efforts during its first six years very naturally took place in the financial field.

During this period, however, attention was given to secondary matters, and in particular, to measures intended (1) to safeguard international commerce against excessive and unjust customs and similar formalities; (2) to protect against unfair and dishonest commercial practices; (3) to discourage the restrictive or discriminatory treatment applied to foreign nationals and enterprises; and (4) to promote better means for the settlement of commercial differences by friendly arbitration.

Since 1923 international agreement was sought for fair and equitable treatment of foreign nationals and enterprises. Two series of recommendations communicated to the Members of the League in May, 1923, and in June, 1925, were designed to secure national treatment in economic, fiscal, and judicial matters for foreign nationals and enterprises admitted by law to establish themselves in a country.[4] Due to the complexity of the question the League has not been able to pass beyond the stage of rec-

[4] *Off. Jour.*, Vol. IV, pp. 955-956 (Aug., 1923); Vol. VI, pp. 957-961 (July, 1925).

ommendations. The attempt in 1929 to conclude an international convention met with dismal failure.

Despite this failure, the League's attempts to solve the rest of these questions referred to above were quite fruitful. On November 3, 1923, an international convention for the simplification of customs and similar formalities were signed under League auspices and went into force on November 27, 1924.[5] The system adopted aims at, with regard to customs formalities, publicity, simplicity, expedition, equality, and redress. In a large number of countries customs regulations and formalities have been one after another, following the ratification of the Convention, brought into conformity with the principles embodied in the Convention, either by unilateral action or by means of bilateral agreements. It tends to establish uniformity in customs regulations and formalities. Thus were removed the differences of interpretation and disputes to which such differences may give rise.

On the 24th of September of the same year a Protocol on Arbitration Clauses was adopted and opened for signature by the Assembly, and became effective July 28, 1924.[6] Under the terms of the Protocol, the contracting States recognize the validity of agreements to submit to arbitration differences relating to commercial matters between parties subject respectively to the jurisdiction of different States. They also undertake to ensure the execution of arbitral awards made in their territories. The Protocol contains no provisions regarding the enforcement of awards made in foreign countries. This defect was removed by a supplementary Convention signed on September 26, 1927.[7] It became effective July 25, 1929, and is at present in force between twenty-one States.

In addition, the Council, on the suggestion of the French Government, had in September, 1932, appointed fourteen experts to constitute a panel for arbitration between States.[8] The interested

[5] *League of Nations Treaty Series*, Vol. XXX (1924), pp. 373ff.

[6] *League of Nations Treaty Series*, Vol. XXVII (1924), pp. 157ff.

[7] *Ibid.*, Vol. XCII (1929), p. 301.

[8] *Procedure for the Friendly Settlement of Economic Disputes between States* (C.57.M.32.1932.II.B); *Off. Jour.*, Vol. XIII, p. 465 (Mar., 1932); pp. 1718-1719 (Nov., 1932).

parties may at any time select, provided always that no appointee is a national of any of these States, from among these experts with whom they could entrust the settlement of their economic disputes, either by arbitration or by conciliation. Resort to this new procedure has been open to States, members and non-members of the League, from January 1, 1933. The new method is superior in many respects to the old system of arbitration provided for in most commercial treaties. The procedure under the old system is slow and ill-adapted to economic development. Moreover, these bodies all invariably composed of judges who, not thoroughly acquainted with the details of economic life, are inclined to rely on criteria of pure law in judging cases in which situations of fact and technical considerations are of predominant importance. The personnel called upon to act as arbitrators, particularly as regards nationalities, causes so much anxiety and leads to such difficulties that it often prevents effectual negotiations. These undesirable results would be avoided under the new method provided for.

In collaboration with the International Permanent Bureau for the Protection of Industrial Property at Paris, the Convention for the Protection of Industrial Property of 1883, amended at Washington in 1911, was revised at a conference held at the Hague November 6, 1925. The revised Convention[9] pronounced "every act of competition contrary to honest practices in industrial or commercial matters" to be an act of unfair competition. More adequate safeguards against dishonest commercial practices, such as the illegitimate use of trade marks and trade names, false indication of origin and false descriptions, and other fraudulent trade practices hindering legitimate commerce, were ensured to traders, purchasers, and consumers of all countries. The Convention went into force July 1, 1928, and is at present binding upon twenty-seven countries including the United States.

Other forms of unfair competition, such as dumping and commercial bribery did not escape the notice of the League. The effect of dumping is particularly detrimental to the industry and commerce of nations. The question was subjected to thorough examination by the League and its Economic Conferences. The

[9] *League of Nations Treaty Series*, Vol. LXXIV (1929), pp. 289ff.

effort to mitigate the harmful effect of such practice failed to materialize in the face of diversity of opinions relative to the meaning of dumping to be suppressed by international action.

As for commercial bribery, the League requested the effective cooperation of the business circle for the successful suppression of bribery and many other unjust and dishonest commercial practices. No campaign against unfair and dishonest commercial practices, truthfully declared the Economic Committee, would be fully effective without the development in commercial and industrial circles of a higher standard of business ethics.[10]

With the gradual removal of these relatively minor economic barriers, more important and broader questions, such as customs tariffs and prohibitions, began to claim increasing attention. By the fall of 1925 the general condition of the world appeared favorable for an examination of these important questions. Currency stability was largely restored in most countries. Reparation and war debt payments were adjusted. At the same time political solidarity was established as demonstrated by the Locarno Pacts.

It was under these conditions that the League decided to call a world economic conference to discuss important economic problems essential to the peace and the prosperity of the world.[11] After a year and a half of preparation, the Conference met at Geneva in May, 1927, bringing together all the Members of the League, with the exception of Argentine and Spain, and such important non-members as the United States and Russia. In the field of commerce, the Conference laid great emphasis on improving and increasing facilities for trade by, among others, abolishing import and export prohibitions and restrictions, lowering and making customs tariffs stable and simple. While avoiding the issue between free traders and proctectionists, the Conference pronounced against high and constantly changing tariffs. It specifically declared that "the time has come to put an end to the increase of tariffs and to move in the opposite

[10] *Off. Jour.*, Vol. XIII, p. 603 (Mar., 1932).

[11] *Assembly Records, 6th Assembly, 1925, Plenary Meetings*, p. 116. (*Off. Jour.*, Spec. Supp. No. 33).

direction."[12]

This gave new impetus and a new direction to the economic work of the League of Nations. Shortly after the close of the World Economic Conference, a diplomatic conference for abolishing import and export prohibitions and restrictions was convened by the League. The Conference resulted in the signing of a Convention on November 8, 1927, which aimed at the abolition of all prohibitions of a economic character. The Convention failed of adoption because of the abstention of Poland. The Polish Government resolutely refused to accede to such agreement until such time as she could adequately secure for her exports natural markets then close by artificial barriers.[13]

The attempt to abolish export prohibitions and restrictions on a limited group of commodities, such as hides, skins, and bones, was, however, crowned with success. Two agreements relating to exportation of hides, skins, and bones were signed at Geneva July 11, 1928, by fifteen countries.[14] They became effective October 1, 1929, and are at present in force between some sixteen countries. These Agreemnets put an end to import and export prohibitions in respect of hides, skins, and bones, abolish export duties on hides and skins, and fix maximum rates for export duties on bones. They constituted the "first collective agreement on customs matters since the war", commented the Second Committee of the Tenth Assembly, "and their importance far exceeds that of the commodities to which they refer, since they may be regarded as a small but first step towards the realization of one of the principal aims of the International Economic Conference of 1927."[15]

Since 1928 agreements were sought to reduce and stabilize customs tariffs by means of unilateral, bilateral, and multilateral action. The frequent and abrupt changing of rates, the lack of continuity of tariff policy, and the widely different standards

[12] *Final Report of the World Economic Conference, 1927* (C. E. I. 44), p. 32.

[13] *Report of Secretary-General,* 1930 (A.6(a) 1930); p. 26.

[14] *League of Nations Treaty Series,* Vol. XCV (1930-1931), pp. 357ff., 373ff.

[15] *Assembly Records, 10th Assembly, 1929, Minutes of the Second Committee,* p. 80 (*Off. Jour.,* Spec. Supp. No. 77).

of classification and customs nomenclature have been, in many ways, a more formidable obstacle to international trade than the general level of customs duties. Most of the post-war commercial treaties, contrary to the pre-war practice, were concluded for less than one year.[16] Under these circumstances, the reestablishment of secure international trade relations and stability in industries was hardly possible. Such practice was deplored by all competent authorities in the economic field.[17] The Economic Conference of 1927 emphatically denounced the frequent and sudden changes in customs duties and urged the return to the pre-war system of long-term treaties.[18]

In order to ensure a greater and more permanent stability in commercial relations between the nations, it is also necessary to provide for an equitable basis of commercial negotiation by establishing a common tariff system and customs nomenclature, and by standardizing the method of treaty-making. Tariff systems adopted in the various countries have assumed many forms. The Economic Committee of the League considered it impossible, for the moment, to put an end to the disparity of systems prevailing in this matter.[19]

In dealing with treaty-making methods, the League was confronted with the two conflicting conceptions which coexisted in Europe. One, that of Central Europe, was that of negotiable tariffs reducible by agreements, and the other, used in the Anglo-Saxon countries, regarded tariffs as measures of internal order not susceptible of adaptation by international agreements. In the face of this highly controversial matter, the Leagus abstained from condemning or approving in an absolute manner either of these two methods.[20]

A standard customs nomenclature, however, was drawn up

[16] See the report of M. Theunis, President of the World Economic Conference of 1927. *Ibid., 8th Assembly, 1927, Minutes of the Second Committee,* p. 36 (*Off. Jour.,* Spec. Supp. No. 56).

[17] Cf. Sir Arthur Salter, "The Economic Organization of Peace," *Foreign Affairs,* Vol. IX, p. 48 (Oct., 1930).

[18] *Final Report of the World Economic Conference, 1927* (C. E. I. 44), p. 25.

[19] *Off. Jour.,* Vol. IX, p. 1515 (Oct., 1928).

[20] Economic Committee, *Recommendations Relating to Commercial Policy* (C.138.M.53.1929.II).

by the Economic Committee after long and laborious preparation.[21] Under the proposed system, goods are classified on a simple, scientific and systematic basis. The draft contains principal and secondary items. The principal items are intended to be fixed. Countries adopting the standard nomenclature would not be allowed to alter or abolish any of these principal items. The secondary items are not so restricted. Countries are free to reduce or increase their number. In this way, all tariffs would have a minimum of elaboration, thus eliminating the danger of excessive simplicity. By making the list flexible, countries acceding to the standard nomenclature would be able to arrange tariffs in accordance with their economic and financial requirements and without, in any way, altering the structure of the general framework.

The adoption of the unified customs nomenclatures would mean the unification of customs language and terminology, thus removing the ground for uncertainty and ambiguity in interpreting tariffs. It would greatly benefit the traders and facilitate customs statistics. The simplification and unification of customs nomenclature is more important from the point of view of commercial policy. All efforts tending to tariff reduction in the past were closely related to the establishment of a simplified and standardized customs nomenclature. A fixed and unified nomenclature, in the opinion of many States, was an essential condition in the reduction of tariffs, since it was impossible to proceed to the comparison of the tariffs of different countries without this unification.[22]

The movement for tariff reduction began in 1927. The League's role in the movement from 1927 to 1929 was confined to promoting tariff reductions through bilateral and unilateral action. Although during the first twelve months following the Geneva Economic Conference many countries had falled into lines with the principles enunciated by the Conference, after a short while the various Governments showed little inclination to give effect to the Conference's recommendations. As the

[21] The draft standard customs nomenclature was revised last year. See *Draft Customs Nomenclature* (revised) (C.295.M.194.1937.II.B).

[22] Cf. Dr. Breitscheid's statement. *Assembly Records, 10th Assembly, 1929, Minutes of the Second Committee*, p. 12 (*Off. Jour.*, Spec. Supp. No. 77).

depression came in 1929 each country again resorted to the usual way of seeking relief. High tariffs, fresh import and export prohibitions were imposed.[23] Alarmed at the prospects of a new tariff war, of which the signs were clearly visible in 1929, to arrest the progress of protectionism, the third method—the reduction of tariffs by collective or multilateral agreement—was attempted. This found expression in Briand's idea for a United States of Europe and in a British proposal for a tariff truce in 1929.[24] Neither of these projects was able to materialize.

During 1931 and 1932 economic conditions were further aggravated by the problems created by the financial crisis sweeping across the continent. The deepening of the economic depression and the abandonment of the gold standard by many countries further intensified the nationalistic tendency.[25] It was under these circumstances that the League again assumed the leadership in the attempt to call a halt to the situation. In June, 1933, a second World Economic Conference was convened at London under its auspices, with some sixty-four countries including the United States participating. The disagreement between France and Italy, on the one hand, who insisted that the restoration of any effective monetary standard must precede the lowering of tariff barriers,[26] and Great Britain and the United States, on the other, who held the contrary view,[27] was fatal to the whole program of economic rapprochement. The Conference, therefore, adjourned at the end of July without having reached an agreement on commercial policy.

The experience of these failures has forced the League to retire to the more conservative method. Encouraged by the successful result of the bilateral and collective negotiations which culminated in the conclusion of the Tripartite Monetary Agree-

[23] League of Nations, *World Economic Survey*, 1931-1932, pp. 279-289.

[24] *Assembly Records, 10th Assembly, 1929, Plenary Meetings*, pp. 52, 80 (*Off. Jour.*, Spec. Supp. No. 75).

[25] For the condition of world trade during this period, see League of Nations, *Review of World Trade*, 1931-1932, pp. 14-16.

[26] *Journal of the Monetary and Economic Conference, London, 1933*, June 14, pp. 12-13; June 23, p. 86.

[27] Cf. the statement issued by the American Delegation at London on June 22, 1933. U. S. Department of State, *Press Releases*, June 24, 1933, p. 470; also President Roosevelt's declaration on July 2. *Ibid.*, July 8, 1933, pp. 15-16.

ment of September, 1936,[28] the Assembly on October 10, 1936, recommended all States to reduce excessive trade barriers and to relax the system of quotas and exchange controls through these methods of negotiation.[29]

At the end of 1937, while the volume of world trade increased and economic recovery became more pronounced, the trade situation, on the whole, underwent little improvement. Such formidable obstacles as import quotas and restrictions on foreign exchange continue to exercise their restrictive effects on international trade.[30]

The tariff matter has also been approached from other angles. The most-favored-nation clause was subjected to exhaustive studies between 1928 and 1932. Since the war the most-favored-nation clause in its traditional unconditional and unrestricted form ceased to operate in the commercial relations of a large number of counrties. Countries were generally reluctant to enter into reciprocal arrangements with one another because the concessions so accorded would be enjoyed by third parties simply by virtue of their possessing most-favored-nation treatment. This largely accounted for the slight use of the clause in the post-war period. Furthermore, countries have, especially during the abnormal period, invariably tried to avoid such consequences by introducing various methods limiting unconditional grant of most-favored-nation treatment.[31]

The urgency of its restoration in post-war commercial relations was strongly emphasized by the Geneva Economic Conference, and by the League Assemblies. While advocating a return to the unconditional and unrestricted most-favored-nation treatment, the Economic Committee of the League was nevertheless of the opinion that so long as world trade continued to be under the influence of quantitative restrictions, the use and value of the clause would continue to be undermined without any likelihood of its restoration. It was certain, however, that the principle

[28] *Assembly Records, 17th Assembly, 1936, Minutes of the Second Committee*, p. 101 (*Off. Jour.*, Spec. Supp. No. 157).

[29] *Ibid., Plenary Meetings*, p. 141 (*Off. Jour.*, Spec. Supp. No. 155).

[30] Economic Committee, *Remarks on the Present Phase of International Commercial Relations* (C.379.M.250.1936.II.B), p. 24.

[31] Economic Committee, *Equality of Treatment in the Present State of International Economic Relations* (C.379.M.250.1936.II.B), pp. 17-24.

would be reestablished as soon as the disturbances of the world economic relation should disappear.[32]

The Economic Committee also undertook to formulate a standardized interpretation concerning the field of application of the clause with regards to customs quotas, the import and export prohibitions, and the temporary imports and exports, and concerning such important questions as exceptions to the most-favored-nation clause, nationality of goods and "like products". The philosophy evolved, if universally adopted, would have a profound effect on international relations. In 1929 it drew up a clear, simple, unequivocal, but flexible model clause. It was highly recommended by the Tenth Assembly for adoption by Governments.

One of the more important world questions is the problem of raw materials and foodstuffs. The problem has two distinct but interrelated questions: (1) the question of access to raw material markets for the producing countries; and (2) the question of access to raw material supplies for the consuming countries. These questions have engaged the League's attention from its beginning.

The League attempted to solve the problem of access to raw material markets by trying to promote a better equilibrium between production and consumption. Since 1928 special attention was directed to the organization of production and trade in certain branches of industry for which coordination of production and marketing was especially urgent. Experts and representatives from the various interests affected in the different countries had been brought together from time to time by the League. The meetings of these persons have helped to establish closer contacts between the same industries in different countries. In many cases, they have stimulated the conclusion of industrial agreements either between Governments or private organizations.[33]

Far more important than the access to raw material markets

[32] *Ibid.*, p. 8.

[33] For example, London Wheat Agreement of 1933, the Anglo-Dutch Rubber Agreement of 1934, the International Copper Agreement of 1935, the Anglo-Polish Agreement of 1935, and more recently, the International Sugar Convention of 1937.

in modern international relations is the problem of access to raw material supplies. The physical resources are not evenly distributed over the surface of the earth.[34] The uneven distribution of resources and the interdependence of raw materials has become a vital factor in the post-war politics. The struggle for economic self-sufficiency in raw materials and foodstuffs are not due solely to economic reasons; they are largely attributed to questions of a political nature. The fear of war and of being deprived of necessities in time of war have been among the political factors contributing to the universal struggle towards national self-sufficiency.

National economic independence is viewed with particular anxiety by nations poor in resources, notably, Switzerland and Italy. The latter has persistently demanded for an equitable distribution of essential raw materials. The League, however, was inclined to deal with the problem from its economic aspect. The Convention on the Abolition of Import and Export Prohibitions and Restrictions, signed on November 8, 1927, though not limited to raw materials, would have an important multilateral effect on the whole raw material problems had it been accepted by a sufficient number of States. The Agreements reached between a group of countries on the question of access to two specific commodities, namely, hides and skins, and bones, are extremely important because they represent the first attempt to deal with export restrictions and duties on raw materials by means of multilateral treaties.

The problem of raw material distribution became more pressing as the result of increasing political unrests. Upon the suggestion of the British Government, the Assembly in 1936 authorized the Council to appoint a special Committee of Inquiry on Raw Materials.[35] The Committee of Inquiry held three sessions during 1937. It concluded its work in September, 1937, without making much progress on this subject. In late 1937, the Economic Committee, in view of the findings of the Committee of

[34] For relative national self-sufficiency as regards the essential raw materials, see Brooks Emeny, *The Strategy of Raw Materials: A Study of America in Peace and War*, pp. 17, 21.

[35] *Assembly Records, 17th Assembly, 1936, Plenary Meetings*, pp. 141-142 (*Off. Jour.*, Spec. Supp. No. 155).

Enquiry, laid down several recommendations for (1) the abolition of prohibitions and restrictions, and duties on exportation of raw materials; (2) equality of treatment between foreigners and nationals in the development of natural resources both of the sovereign countries and of colonial territories; and (3) for the institution of equitable international regulation scheme relating to the supply of raw materials. In the light of the past experience, it is rather doubtful that the attempt strictly limited to economic aspect of the question will accomplish its objective.[36]

By Article 22 of the Covenant, the League is responsible for the enforcement of the principles of economic and commercial equality for League Members in the "A" and "B" mandated territories. The task rests primarily with the Council which acts through the Permanent Mandates Commission. The function of the Commission is advisory.[37] It examines annual reports from the Mandatory powers, gives advices on policy, and criticizes the policy or activity of the administration. Through these procedures, a body of rules of economic and commercial equality under the mandates system have been established. Additional rules and principles are still constantly developing as new cases come before the Commission for review.

Equality of economic and commercial treatment has, under the supervision and influence of the League, been successfully enforced. Discriminations in customs and other matters were invariably removed upon the criticism of the Commission. No Mandatory, moreover, has ever monopolized the trade with the mandated territories. The system, it has truly been said, is "the most effective instrument yet devised to make the open door effective."[38]

An effective enforcement of the principle of economic equality by a system of international control tends to limit the range of action of competing economic imperialisms. Such a system, if it could be applied to all colonies and possessions, would offer at least a partial solution to the raw material problems. This

[36] Cf. Eugene Staley, *Raw Materials in Peace and War*, pp. 234-235.

[37] Cf. the opinion of the Permanent Mandates Commission. *Permanent Mandates Commission, Minutes of the 8th Session*, 1926, p. 200.

[38] Benjamin Gerig, *The Open Door and the Mandates System*, p. 199.

has been advocated by an increasing number of authorities.[39] On one occasion, Lord Lugard was reported to have suggested that the British Government should spontaneously submit annual reports to the Mandates Commission on the administration and conditions in its crown colonies.[40]

Such has been the record of the League's activities in the commercial field in the past eighteen years. Beginning in a small and limited manner it has extended its sphere of action into nearly every phase of international economic life which formerly belonged exclusively to governmental action. Only a few of these, however, have produced substantial results. It would be useless to judge its achievement in the face of gigantic world problems without keeping in mind the limitations set upon it at the outset by its very nature and organization.

In many instances, the reduction of trade barriers is analogous to the disarmament issue. At every point, like the disarmament issue, the questions of national independence and security are seriously involved. These questions are particularly important with those countries whose political fears are most acute. Lowering of tariffs and other trade barriers means the growth of economic interdependence. But "so long as the fear of war is real," Mr. Bresler said, "one nation does not wish to become dependent upon another for vital economic needs, for such dependence might mean defeat in wartime."[41] Equally serious have been the difficulties found in the divergence of economic interests of certain countries. There are conflicts in economic interests and policies between the larger and older countries and the small and younger States on the one hand, and between the industrial and agricultural countries on the other.

Certain conditions peculiar to some countries also make things more complicated. Some countries, for example, Bulgaria, had absolutely refused to lower their tariff barriers or to bind themselves to refrain from increasing them because the customs receipts were pledged for the payment of reparation.[42] Others the debtor countries, such as Hungary, would be able to participate in restoring normal international trade only if a favorable balance of trade could be permanently secured.[43]

Finally, to this disparity of economic interests may be added certain technical difficulties. Modern tariffs are of different levels; are constructed on different principles; and are based on varying nomenclatures. The difficulties of negotiation on such a complex and heterogenous tariff problem are undoubtedly very great. Another difficulty experienced in the past multilateral as well as bilateral negotiations is found in the application of the unconditional most-favored-nation treatment. Countries in negotiation often hesitate to grant tariff concessions to another for fear that such benefits will be automatically extended to all countries.

The reason for the lack of tangible results of the League's activities in the commercial field is not, therefore, difficult to comprehend. Furthermore, the League is not a super-State. Its action is limited to formulation of principles, recommendations, and proposals. The decisive power rests with the individual Governments. The main bulk of the work to be done, therefore, falls upon the Governments themselves. International organizations, such as the League, can help, but their success is limited and determined by the public opinion and the attitude of the Governments. M. William Rappard very adequately stated that the "real government of the League is not in Geneva, except during the sessions of the Council and of the Assembly, and even then only in part. The League is in reality governed, not from its seat, but from and by the ministries and parliaments of the States Members of the League."[44]

The attitude of the Great Powers is, as a matter of fact, the chief determinant of the success of all the League's economic activities. The failure of the Tariff Truce Conference in 1930 and

---

[39] Cf. Sir Arthur Salter, *Peace and the Colonial Problem* (National Peace Council, London); Leonard Barnes, *The Future of Colonies;* Lord Lugard, "The Basis of the Claim for Colonies," *International Affairs,* Vol. XV, p. 25 (Jan.-Feb., 1936).

[40] *Assembly Records, 17th Assembly, 1936, Minutes of the Sixth Committee,* p. 29 (*Off. Jour.,* Spec. Supp. No. 161).

[41] "Trade Barriers and the League of Nations," *Foreign Policy Reports,* Vol. VII, p. 218 (Aug., 1931).

[42] *Assembly Records, 11the Assembly, 1930, Minutes of the Second Committee,* p. 34 (*Off. Jour.,* Spec. Supp. No. 85).

[43] *Ibid., 17th Assembly, 1936, Minutes of the Second Committee,* p. 57 (*Off. Jour.,* Spec. Supp. No. 157).

[44] Rappard, *International Relations As Viewed from Geneva,* pp. 161-162.

the inability to put into effect the Commercial Convention it later adopted was chiefly attributed to the hostile attitude of France and Italy. A similar fate attended the London Economic Conference of 1933. It failed because of the disagreement among the Great Powers on monetary and economic policies. By reason of their economic importance as well as their social and political prestige, the Great Powers assume larger responsibilities than the small Powers in so far as the League is to be more effective in all its activities. The official opinion in League circles of recent years seems to have acknowledged this fact. Both French and British Governments have admitted that the Great Powers should take the lead because the Covenant recognizes them as such.[45] It can readily be seen, therefore, that only when Members of the League, particularly the Great Powers, continue to give their allegiance to this high conception of this function can the League of Nations fulfil its mission to mankind.

So far as the working of the League's machinery is concerned, little criticism seems necessary. The work accomplished by the League's Economic Committee in the various fields of commercial policy, especially the standardized formula concerning the most-favored-nation clause and the treaty groundworks on various subjects, shows how competent it has been in dealing with such a complicated problem. The Committee has been a real source of international legislation. Many of the principles and draft Articles formulated have been adopted or incorporated into international agreements. Others, though not actually adopted, have guided the States in their bilateral or collective negotiations. Its preparatory work for the international conferences and the results gained by that alone have thoroughly justified its existence. By bringing together experts of various countries specially interested in a given question or by consultation with the Governments concerned, it discovered the maximum of agreement possible for a unified international program. Without such a foundation to deal with such highly complicated matters as commercial policies a conference is hardly conceivable.

Another noteworthy achievement of the League which must

[45] *Assembly Records, 14th Assembly, 1933, Plenary Meetings*, pp. 64, 38 (*Off. Jour.*, Spec. Supp. No. 115).

not be overlooked is the economic research undertaken by its technical organs. These compile and publish statistics and information regarding every phase of world economic activity. It cannot be denied that more information of this kind is required to enable nations to arrive at a satisfactory solution of the economic ills. The value of these labors cannot easily be estimated. As the Russian delegation has suggested, any estimate of the League activity as a whole should be approached from the angle of the quality rather than the mere quantity.[46]

The breakdown of the international economic and financial structure, in the opinion of Sir Arthur Salter, does not mean a defeat forcing the world to retire to a more primitive base of economic organization, but a challenge to organize world economics on a more stable basis.[47] This opinion suggests the fact that despite increased economic nationalism since 1930, the condition of interdependence which brought the League into being has not, as some have asserted,[48] been totally ignored by the nations. Although international cooperation suffered disheartening setbacks in the time of economic crisis, the same cannot be said of the spirit reflected in the speeches made in the Assemblies by the representatives of the various countries. The need for international cooperation has been increased rather than diminished by the rise of economic nationalism. Side by side with the increased national rivalries may be found unmistakable signs of the development of international economic planning. This trend is perhaps best illustrated by the international agreements concluded in recent years for a number of industries. There is reason, therefore, to believe that the spirit of international cooperation will be enhanced with each added sign of economic improvement.

The isolated action during a period of economic crisis is largely due to lack of confidence in international solution. Such a faith can be developed only after years of experience. For, unless the League is to become a super-State, as many observers would suggest, it will have to rely entirely upon the "good will

[46] See Litvinoff's statement. *Ibid., 17th Assembly, 1936, Plenary Meetings*, p. 61 (*Off. Jour.*, Spec. Supp. No. 155).

[47] Cf. Sir Arthur Salter, *Recovery, the Second Effort*, Ch. IV.

[48] Cf. Sir George Paish's opinion, *loc. cit.*

and determination of Governments and public opinion of all countries."[49] Such suggestions as Newfang's, Keen's, and Streit's for converting the League into a federation of nations,[50] are not coherent with the official opinion in League circles. The general opinion so far as the League's economic activity is concerned is that there is nothing wrong with the League Covenant. It was not the machinery that had broken down, but it was the failure on the part of the Governments to use the League machinery to its fullest.[51]

In conclusion, whatever the efficacy of the existing League system in meeting present economic difficulties, those difficulties in their international aspect must be met by international means. The world has witnessed during the past few years a considerably increasing tendency towards collective planning of nation's economic life. Adequate national planning necessitates a measure of regulation on an international scale.

Attempts strictly limited to purely economic questions, as the past experience has shown, must be of limited efficacy. In order to obtain greater results progress should be made concurrently in all directions, namely, economic, financial, social, and political. It may be advisable that the preliminary work should be participated in by political as well as by economic or technical representatives.[52]

Last but most important of all is the question of universality. The Economic Consultative Committee reported in 1928 that a survey of trade over a period of years shows that the movement for the diminution of trade barriers cannot gather its full momentum until it has extended from Europe to all the countries of the World.[53] The cooperation of the United States is particularly essential to the success of the League's activity in this

[49] *Ten Years of World Cooperation* (League of Nations publication), p. 8.

[50] Cf. Clarence Streit, "Reform of the Covenant is not Enough," in *Problems of Peace*, 11th Series (1937), pp. 213-232; Oscar Newfang, *The Road to World Peace*, pp. 280-281; F. N. Keen, *A Better League of Nations*, p. 13.

[51] See Mr. Anthony Eden's statement at the 17th Assembly. *Assembly Records, 17th Assembly, 1936, Plenary Meetings*, p. 45 (*Off. Jour.*, Spec. Supp. No. 155).

[52] Cf. James T. Shotwell, *On the Rim of the Abyss*, p. 24.

[53] *Assembly Records, 9th Assembly, 1928, Plenary Meetings*, p. 259 (*Off. Jour.*, Spec. Supp. No. 64).

respect.

The attitude of the United States Government towards the League in regard to economic cooperation has been definitely clear during the past few years. It will continue to show effective interest in the League's effort to promote world economic and financial recovery if nothing suggests hostility to the economic policies of this country. As for the British and French Governments, evidence of enthusiasm for an economic rapprochement is not lacking. A number of other countries, namely, Panama, Roumania, and Australia, have also shown their keen interest in the amelioration of international economic relations.[54] If the foregoing considerations are correct, it is not illusory to believe that the League's future effort in these undertakings will be more successful and full of promise.

[54] *Ibid., 18th Assembly, 1937, Plenary Meetings*, pp. 71, 75, 76-77 (*Off. Jour.*, Spec. Supp. No. 169).

VITA

Henry Hwei Den was born in Shanghai, China, September 6, 1910. He obtained his secondary and college education at the University of Shanghai and its auxiliary academy. At the end of his Junior year, he came to the United States and entered Southwestern College, Winfield, Kansas, on a scholarship, in September, 1933. He was graduated there with the degree of Bachelor of Arts, June, 1934. In the fall of 1934 he entered the University of Illinois where he received his Master of Arts in Political Science, February, 1936.

MSH 25546

END OF
TITLE